

Peter A. Leeming, SBN 119124  
108 Locust Street, Suite 7  
Santa Cruz CA 95060

Telephone (831) 425-8000

Attorney for: Defendant, JOHN ROSCOE

\*E-FILED - 5/14/08\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

## SAN JOSE DIVISION

The United States of America, by Eumi Choi, Assistant United States Attorney, defendant John Roscoe, by and through his attorney Peter A. Leeming, and defendant Ned Roscoe, by and through his attorney Mark Eibert, hereby enter into this joint stipulation.

1           The parties stipulate, and ask the Court to adopt as its  
2 FINDINGS that:

3           1. This matter involves allegations of bank fraud  
4 extending over several years. The government has charged that the  
5 defendants misstated the value of inventory in their  
6 approximately 1,000 small stores and by doing so obtained credit  
7 exceeding an amount approved by the lender. The case is complex  
8 and it is expected that discovery will be voluminous.

9           2. Counsel for the government and counsel for defendant  
10 Ned Roscoe have both become attorney of record fairly recently.  
11 At the last status conference hearing, counsel for all parties  
12 agreed to meet and confer on outstanding discovery issues. In  
13 addition, it has become apparent that it will be necessary to  
14 arrange a collective meeting where all counsel can inspect  
15 material in the possession of the FBI. However, Counsel for Ned  
16 Roscoe has not been able to participate in such a conference  
17 because he has had to file several opening briefs in the Ninth  
18 Circuit.

19           3. All counsel agree that review of the documentary  
20 evidence in the possession of the FBI is necessary before  
21 deciding how this case should proceed.

22           4. The parties therefore agree to and request that the  
23 Court Order that:

1       1. The current hearing date of May 5, 2008 be vacated, and  
2  
3 a new date of June 30, 2008, at 9:00 AM be set for status.

4       2. That the time between May 5, 2008 and June 30, 2008 be  
5 excluded as an exclusion of time is appropriate and necessary  
6 under Title 18, United States Code, Section 3161(h)(8), and  
7 because the ends of justice served by this continuance outweigh  
8 the best interest of the public and the defendant in a speedy  
9 trial.

11  
12           IT IS SO STIPULATED  
13

14  
15           Dated: May 1, 2008

By: \_\_\_\_\_/s/  
EUMI CHOI, Assistant United  
States Attorney

17  
18  
19           Dated: May 1, 2008

By: \_\_\_\_\_/S/  
PETER A. LEEMING, attorney  
for defendant John Roscoe

21  
22           Dated: May 1, 2008

By: \_\_\_\_\_/S/  
MARK EIBERT, attorney  
for defendant Ned Roscoe

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) No. CR 07-373  
                               )  
Plaintiff,                 ) **[ ] ORDER VACATING**  
                               ) **STATUS CONFERENCE DATE AND**  
vs.                         ) **SETTING NEW DATE**  
                               )  
                               )  
JOHN ROSCOE, et al,         )  
                               )  
                               )  
                               )  
Defendants                 )  
                               )

## ORDER

For the reasons stated in the above Stipulation, the Court orders that the currently set motion hearing date of May 5, 2008 is VACATED, and that the case is set for hearing on any motions on June 30 2008, at 9:00 AM for the reasons set forth above.

IT IS SO ORDERED.

Dated: 5/14/08

Ronald M. Whyte

U. S. District Judge